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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,689	09/20/2006	Flemming Trap	P2650US00	8438

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DITTHAVONG MORI & STEINER, P.C.  
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Alexandria, VA 22314

EXAMINER
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HERRERA, DIEGO D

ART UNIT	PAPER NUMBER
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2617

NOTIFICATION DATE	DELIVERY MODE
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06/28/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,689	<b>Applicant(s)</b> TRAP, FLEMMING	
	<b>Examiner</b> DIEGO HERRERA	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 4,6,14,16 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-13, 15, 17-21, 23-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

Claims 1-3, 5, 7-11, 13, 15, 21 and 23 have been amended.

Claims 24-28 are new claims.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 1, 3, 5, 11, 13, 15, 21, and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 3, 5, 11, 13, 15, 21, and 25 claim a first and a second setting that are use in the limitations, however, there is no disclosure of such limitations supported by the original application.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-28 recite the limitations "cause the**

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apparatus to perform," and "adjusting an availability setting of the mobile communication terminal" in where *"the apparatus"* and *"the mobile communication terminal"* have no antecedent basis in the claims. **There is insufficient antecedent basis for this limitations in the claim.**

**Claim 1**, the limitation; "cause the apparatus to perform at least the following," in line 5. there is insufficient antecedent basis for this limitation.

**Claim 1**, the limitation; "adjusting an availability setting of the mobile communication terminal to the more...," in line 11. there is insufficient antecedent basis for this limitation.

**Claims 2-28**, have similar deficiency in the preamble or body of the claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-28 are rejected under 35 U.S.C. 102 (e) as being anticipated by Doss et al. (US 20030046296 A1).

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**Regarding claim 1.** Doss et al. discloses a terminal (fig. 1, ¶: 48, Doss et al. teaches computing device being able to connect to server using a wired connection, or a wireless connection, hence, a terminal), comprising:

A processor (fig. 1, Doss et al. teaches processor element 12); and

at least one memory including computer program code (¶: 41-42, Doss et al. teaches at least one memory which shows communication capability),

The at least one memory and the computer program code configured to, with the processor, cause the apparatus to perform at least the following,

detecting commencement of an activity or running of an application associated with a first setting (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting),

retrieving a second setting associated with a selected operating profile (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting);

selecting a more restrictive setting based on a comparison of the first setting and the second setting (¶: 8, 53, Doss et al. teaches selection is made by user of going form

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status setting to another, one of them been more restrictive, however, this is a user choice);

adjusting an availability setting of the mobile communication terminal to the more restrictive setting; (fig. 1-5, ¶: 8, 14-17, 20-22; Doss et al. teaches user definable settings associated with availability settings),

and

reporting of the adjusted availability setting to or via a network (fig. 2, ¶: 43-48, Doss et al. teaches wireless network that is applied to adjust the availability to a network).

**Regarding claim 11.** Doss et al. discloses a method comprising:

detecting commencement of an activity or the running of an application associated with a first setting (¶ 55-59, Doss et al. teaches detecting times and running applications due to settings set by user automatically);

retrieving a second setting associated with a selected operating profile (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting);

selecting a more restrictive setting based on a comparison of the first setting and the second setting (¶: 8, 53, Doss et al. teaches selection is made by user of going from status setting to another, one of them been more restrictive, however, this is a user choice);

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adjusting an availability setting (§§: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting) of a mobile communication terminal to the more restrictive setting (fig. 1-5, §§:14-17, 20-22; Doss et al. teaches user definable settings associated with availability settings); and causing, at least in part, reporting of the adjusted availability setting to or via a network (fig. 2, §§: 43-48, Doss et al. teaches wireless network that is applied to adjust the availability to a network).

**Regarding claim 21.** Doss et al. discloses an apparatus comprising:

a processor; and

at least one memory including computer program code (§§: 41-42, Doss et al. teaches at least one memory which shows communication capability),

the at least one memory and the computer program code configured to, with the processor (fig. 1, Doss et al. teaches processor element 12),

cause the apparatus to perform at least the following,

detect commencement of an activity or running of an application associated with a first setting (§§ 55-59, Doss et al. teaches detecting times and running applications due to settings set by user automatically);

retrieve a second setting associated with a selected operating profile (§§: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic

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status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting);

select a more restrictive setting based on a comparison of the first setting and the second setting (¶: 8, 53, Doss et al. teaches selection is made by user of going from status setting to another, one of them been more restrictive, however, this is a user choice);

adjust an availability setting of a communication terminal to the more restrictive setting (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting) (fig. 1-5, ¶:14-17, 20-22; Doss et al. teaches user definable settings associated with availability settings); and  
report the adjusted availability setting to or via a network (fig. 2, ¶: 43-48, Doss et al. teaches wireless network that is applied to adjust the availability to a network).

**Consider claim 2.** A terminal as claimed in claim 1, in which the adjusting means is arranged to adjust the availability setting depending on the identity of the application or the activity (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact



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information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting).

**Consider claim 3.** A terminal as claimed in claim 2, in which the first setting is user definable (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting).

**Consider claim 5.** A terminal as claimed in claimed 4, in which the second setting is user definable (fig. 1-5, ¶:14-17, 20-22; Doss et al. teaches user definable settings associated with availability settings).

**Consider claim 7.** A terminal as claimed in claim 1, wherein the adjustment of the availability setting is responsive to the ending of the activity or the ceasing of the running of the application to restore the availability setting to its previous setting (fig. 5; ¶: 55-60, Doss et al. teaches making determination whether availability of application will revert to another setting).

**Consider claim 8.** A terminal as claimed in claim 1, wherein the apparatus is further caused, at least in part, to allow a user to define a different availability setting for a predetermined network user or a group of network users to a setting associated with other users (fig. 5, 12; ¶: 14-18, 55-63, Doss et al. teaches different settings that are define by user to update status for buddy lists).

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**Consider claim 9.** A terminal as claimed in claim 1, wherein the apparatus is further caused, at least in part, to queue one or more communications received in contravention of an availability setting without revealing the one or more communications to the user (¶: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

**Consider claim 10.** A terminal as claimed in claim 1, wherein the apparatus is further caused, at least in part, to, in response to the receipt of a communication in contravention of an availability setting for automatically sending a reply (¶: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

**Consider claim 12.** Method as claimed in claim 11, in which the adjusting step includes adjusting the availability setting depending on the identity of the application or the activity (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting).

**Consider claim 13.** A method as claimed in claim 12, in which the first setting is user definable (¶: 14-21, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information

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will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting).

**Consider claim 15.** A method as claimed in claim 14, in which the second setting is user definable (fig. 1-5, ¶:14-17, 20-22; Doss et al. teaches user definable settings associated with availability settings).

**Consider claim 17.** A method as claimed in claim 11, comprising detecting the ending of the activity or the ceasing of the running of the application, and in response to a detection restoring the availability setting to its previous setting (fig. 5; ¶: 55-60, Doss et al. teaches making determination whether availability of application will revert to another setting).

**Consider claim 18.** A method as claimed in claim 11, comprising allowing a user to define a different availability setting for a predetermined network user or a group of network users to a setting associated with other users (fig. 5, 12; ¶: 14-18, 55-63, Doss et al. teaches different settings that are define by user to update status for buddy lists).

**Consider claim 19.** A method claimed in claim 11, comprising queuing one or more communications received in contravention of an availability setting without revealing the one or more communications to the user (¶: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

**Consider claim 20.** A method as claimed in claim 11, comprising automatically sending in response to the receipt of a communication in contravention of an availability setting a

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reply communication (§: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

**Consider claim 23.** The apparatus as claimed in claim 21, wherein the apparatus is further caused, at least in part, to allow a user to define a different availability setting for a predetermined network user or a group of network users to a setting associated with other users (fig. 5, 12; §: 14-18, 55-63, Doss et al. teaches different settings that are define by user to update status for buddy lists).

**Consider claim 24.** The apparatus as claimed in claim 21, wherein the availability setting is adjusted depending on the identity of the application or the activity (§: 8, 53, Doss et al. teaches selection is made by user of going form status setting to another, one of them been more restrictive, however, this is a user choice).

**Consider claim 25.** The apparatus as claimed in claim 21, wherein the first setting and the second setting are user definable (§: 8, 53, Doss et al. teaches selection is made by user of going form status setting to another, one of them been more restrictive, however, this is a user choice which can be defined).

**Consider claim 26.** The apparatus as claimed in claim 21, wherein the adjustment of the availability setting is responsive to the ending of the activity or the ceasing of the running of the application to restore the availability setting to its previous setting (§: 21, 53, Doss et al. teaches timed events with server for updates).

**Consider claim 27.** The apparatus as claimed in claim 21, wherein the apparatus is further caused, at least in part, to allow a user to define a different availability setting for

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a predetermined network user or a group of network users to a setting associated with other users (§: 14-21, Doss et al. teaches groups and settings for individuals in groups).

**Consider claim 28.** The apparatus as claimed in claim 21, wherein the apparatus is further caused, at least in part, to, in response to the receipt of a communication in contravention of an availability setting, to automatically send a reply communication (§: 92, Doss et al. teaches communicate of alternative information when availability setting is in contravention with outside communication message).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Examiner, Art Unit 2617

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